

## **EXHIBIT 4**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANGELINE MONTGOMERY,

Plaintiff,

vs.

MIDLAND CREDIT MANAGEMENT CO., et  
al.,

Defendants.

ORIGINAL

)  
Case No.:  
12-1244

DEPOSITION OF ANGELIQUE ROSS,

taken by the Plaintiff, commencing at the hour of  
9:00 a.m. on Friday, March 1, 2013, at 530 "B" Street,  
Suite 350, San Diego, California, before Julie A. McKay,  
Certified Shorthand Reporter in and for the State of  
California.

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1                   Do you see that?

2                   A. Yes.

3                   Q. You would agree with me that this collection  
4                   detail looks very similar to the collection detail  
5                   within Ross 5 that we see at Midland pages 9, 10 and 11?

6                   A. Yes.

7                   Q. Okay. And you will notice that both of these  
8                   collection detail notes from Ms. Montgomery's account  
9                   have certain data blocked out.

10                  Do you see that?

11                  A. Yes.

12                  Q. I don't know why it's blocked out. But we have  
13                  both of these copies, so we might need to use them in  
14                  aid of your testimony so that we can explain to us the  
15                  chronology of this account. Okay?

16                  A. Okay.

17                  Q. So that's what I am going to do next. I'm  
18                  going to try to go with you through the history of this  
19                  account. And if you need to reference any of the  
20                  documents in Ross 5 or Ross 6 or any other document in  
21                  order to answer any of my questions, would you let me  
22                  know?

23                  A. I will.

24                  Q. Okay. So let's begin at the beginning.

25                  Am I correct that Midland Funding purchased

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1       this account on December 9th, 2010?

2           A. Yes.

3           Q. Midland Funding did not purchase the account  
4           from Capital One, but purchased it from a different  
5           company called Atlantic Credit & Finance Special Finance  
6           Unit III, LLC; is that correct?

7           A. (Witness reviews document.)

8           Q. And if it helps you, please look at Midland 7,  
9           which appears to be the bill of sale.

10          A. Yes.

11          Q. This is a typical transaction where Midland  
12          Funding buys debt from a secondary buyer, if you will?

13          A. In this case, yes, it was a secondary buyer.

14          Q. Right.

15           Sometimes Midland Funding purchases debt  
16           directly from a credit card company and sometimes from a  
17           secondary buyer.

18           Is that accurate?

19          A. Yes.

20          Q. The particular bill of sale that we have here  
21          within Ross 5 of page Midland 7 says that the seller --  
22          which is Atlantic Credit & Finance.

23           Am I correct about that?

24          A. Yes.

25          Q. -- says that it is providing business records

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1 regarding the accounts.

2 Do you see that in paragraph 2, which begins,  
3 "Seller represents and warrants...?"

4 A. I'm sorry. You said -- can you repeat what you  
5 asked me?

6 Q. Yes.

7 Paragraph 2 begins, "Seller represents and  
8 warrants..."

9 Do you see that?

10 A. Yes.

11 Q. And there is -- does the seller represent and  
12 warrant that it is providing the seller's own business  
13 records regarding the accounts?

14 A. Yes.

15 Q. Okay. So I take it there are many accounts  
16 being purchased all at the same time from Atlantic  
17 Credit & Finance, correct?

18 A. Yes.

19 Q. And Ms. Montgomery's was one of them?

20 A. Yes.

21 Q. All right. And the bill of sale further says  
22 it has -- "The Seller has in this sale provided the  
23 unadulterated electronic records of all original lenders  
24 and previous sellers regarding the accounts."

25 Do you see that?

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1 A. Yes.

2 Q. Would the original lender in the case of  
3 Ms. Montgomery be Capital One?

4 A. Yes.

5 Q. And subsequent sellers would be someone else  
6 who may have owned this debt before Midland such as  
7 Atlantic Credit & Finance, correct?

8 A. Yes.

9 Q. And according to this bill of sale, Atlantic  
10 Credit & Finance is conveying to Midland Funding not  
11 only its own records, but also the unadulterated  
12 electronic records of all original lenders and previous  
13 sellers, correct?

14 A. Correct.

15 Q. All right. So almost immediately within two  
16 days, the account gets loaded onto Midland's system for  
17 collection. So if you look at Midland 11, for example,  
18 there is an entry two days later, December 11th, 2010.

19 Do you see that?

20 A. Yes.

21 Q. That appears to be the first entry in the  
22 collection detail for this particular Capital One  
23 account for Ms. Montgomery, correct?

24 A. Correct.

25 Q. All right. And then we turn to -- am I correct

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1       that Midland Credit Management would attempt to call  
2       Ms. Montgomery?

3           A.    Is your question that we did call  
4       Ms. Montgomery or --

5           Q.    No.   Would the regular course -- strike that.

6                   You told me that Midland Credit Management  
7       services these debts by calling and sending letters and  
8       on occasion referring them to law firms for legal  
9       action, correct?

10          A.    Yes.   So we -- we do call on accounts.   We do  
11       letter accounts.   And we do refer to law firms.

12          Q.    Okay.   Am I correct that Midland Credit  
13       Management, according to its own records, attempted to  
14       call Ms. Montgomery concerning this debt on  
15       December 18th, 2010, about a week after it loaded it  
16       onto its system for collections?

17          A.    Yes.

18          Q.    And the call, according to your verified  
19       interrogatory response, was about 6:39 in the morning,  
20       correct?

21          A.    Yes.   That's what the records say.

22          Q.    All right.   Now, the records also say that  
23       Ms. Montgomery answered the call and advised Midland  
24       Credit Management that it needed to substantiate this  
25       debt; isn't that correct?

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1           That's what it says, right?

2       A.    Correct.

3       Q.    She didn't call you. You called her. Isn't  
4       that correct?

5       A.    Yes.

6       Q.    She had no reason to call you since she didn't  
7       even know that Midland Credit Management had purchased  
8       the debt a week earlier, correct?

9       A.    I mean -- no, I don't think she knew that.

10      Q.    So she had no reason to just call you. She --  
11      she would not have received a letter that was prepared  
12      that same day, correct?

13      A.    Correct.

14      Q.    All right. So the phone call happened first,  
15      correct?

16      A.    Correct.

17      Q.    And according to your verified response, the  
18      plaintiff -- that would be Ms. Montgomery -- asked for,  
19      quote, something, end quote, to substantiate the debt,  
20      correct?

21      A.    Yes.

22      Q.    Ms. Montgomery did not say she owed the debt  
23      and that you could just charge her for it, correct?

24      A.    No, she didn't say that she owed the debt.

25      Q.    Okay. So your characterization of that

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1 A. I'm not sure what you mean.

2 Q. Look at Midland 6, please.

3 Would you agree with me that, according to your  
4 own record, the balance on the Capital One debt was  
5 \$6,871.53?

6 A. It's listed as the previous balance.

7 Q. Okay. Is that the Capital One balance?

8 A. Let me see.

9 I believe so. I'm not positive.

10 Q. Did Midland Credit Management add about \$700 in  
11 interest at six percent on this debt?

12 A. Yes.

13 Q. You would agree with me that Midland Credit  
14 Management has no legal right to add interest on this  
15 debt?

16 MR. SCHWARTZ: Objection as to form.

17 You can answer, if you can.

18 THE WITNESS: No, I wouldn't agree with that.

19 BY MR. SOUMILAS:

20 Q. You're trained in the Fair Debt Collection  
21 Practices Act, correct?

22 A. Yes.

23 Q. That is the federal statute that regulates your  
24 entire business, correct?

25 A. Correct.

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1 Q. Are you of the view that Midland could add  
2 interest on debts absent a statutory right to do it or  
3 an expressed contract to do it?

4 A. I -- I don't know if I can answer that  
5 question.

6 Q. Okay. Are you aware of any statutory right  
7 that would allow Midland to add interest on this debt?

8 A. I don't know.

9 Q. Are you aware of any contract that explicitly  
10 allows for six percent interest to be added on this  
11 debt?

12 A. I don't know that, either.

13 Q. Okay. You would agree with me that when  
14 Ms. Montgomery was later sued for an amount owed to --  
15 on the Capital One debt, they didn't add the interest,  
16 right? They went back to the 6879 figure?

17 A. I believe so, yes.

18 Q. But on the initial letter when she was asked to  
19 pay, you tacked on another \$700 in interest, according  
20 to the letter dated December 18th, 2010, correct?

21 A. Yes.

22 Q. Okay. Now, let's go back to your notes.

23 Am I correct that about a month later,  
24 January 17th, 2011, Ms. Montgomery had another telephone  
25 call with Midland Credit Management?

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1 A. Yes.

2 Q. This time she called you?

3 A. Yes.

4 Q. And according to your notes, you received that  
5 telephone call, correct?

6 A. Correct.

7 Q. And according to your notes, the consumer --  
8 that would be Ms. Montgomery -- claimed she was a victim  
9 of fraud, slash, identity theft, correct?

10 A. Yes.

11 Q. All right. Now, that was January 17th, 2011?

12 A. Yes.

13 Q. Two days later, Midland sent this account to be  
14 reported on Ms. Montgomery's credit reports, correct?

15 A. Yes.

16 Q. And this was reported as a derogatory account,  
17 correct?

18 A. As a collection account, yes.

19 Q. That is a derogatory account. It's not a  
20 positive account or a neutral account. It's a negative  
21 account.

22 You would agree with me?

23 A. I -- I agree. It's not positive.

24 Q. It's negative. Would you agree with that?

25 A. Yeah.

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1           Q. Okay. So it's a collection account to be  
2 placed on all three of her credit reports with the  
3 national credit reporting agencies, correct?

4           A. Yes.

5           Q. And reported by Midland Credit Management,  
6 correct?

7           A. Correct.

8           Q. Okay. Now, continuing on the notes that  
9 Midland has concerning this account, am I correct as a  
10 result of that call, Midland sent a letter to  
11 Ms. Montgomery?

12          A. No. Do you mean based on that call?

13          Q. Based on that call, did -- did Midland send a  
14 letter to Ms. Montgomery -- yeah, that was my question.

15          A. Indirectly. The -- there was a delay in  
16 sending that letter as per our process because we were  
17 waiting to receive the letter of dispute from  
18 Ms. Montgomery.

19           So it wasn't -- it wasn't that that  
20 conversation happened and the -- the letter was  
21 immediately triggered.

22          Q. Okay. Give me a moment, please.

23           (Pause in proceedings.)

24           Ms. Ross, I'm now going to put in front of you  
25 certain records that Ms. Montgomery produced to the

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1 Midland defendants in this case. I've marked them  
2 collectively as Ross 8 for purposes of our handling here  
3 today.

4 (Plaintiff's Exhibit No. 8 marked for  
5 identification.)

6 BY MR. SOUMILAS:

7 Q. And I'll represent to you that these are not  
8 all the -- the records that we produced, but there are  
9 some that we might reference here today.

10 And, in particular, I would like to direct your  
11 attention to a letter that is within this stack of  
12 documents and has "Montgomery 49" at the bottom of it.

13 Would you please take a look at that letter.  
14 Do you have it?

15 A. Yes.

16 Q. Okay. And now we are at February 2nd, 2011,  
17 according to this letter. "Yes"?

18 A. Yes.

19 Q. And it is a letter by Midland Credit Management  
20 to Ms. Montgomery, correct?

21 A. Correct.

22 Q. And the purpose of this letter in early  
23 February is to acknowledge her dispute and to try to  
24 gather information for your investigation, correct, into  
25 that dispute?

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1           A. Yes.

2           Q. All right. So I'm trying to figure out whether  
3           the thing that prompted -- that prompted this letter  
4           going out is a telephone call that happened the previous  
5           month around January 17th.

6           A. So it's -- the answer is kind of yes and no.

7           The --

8           Q. Please explain.

9           A. When the consumer called in and claimed  
10          identity theft, her verbal dispute was within the  
11          validation period. So as part of our process, we do ask  
12          consumers to send in something in writing stating what  
13          their dispute is, which is captured in the notes there.  
14          Just a letter of dispute. We did not ask for proof at  
15          that time.

16           And then the account is coded so that it can be  
17          sequestered and sit in a non-collection activity type  
18          holding space in our system. That is to allow the  
19          consumer time to send in their letter of dispute. While  
20          the FDCPA says 30 days, we actually give 45 just to  
21          allow for any mail delays.

22           And so that account stayed in that area of our  
23          system for the remainder of that -- the 45 days from the  
24          date of the first letter. And then once we didn't  
25          receive anything during that period of time, we then

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1 send out a letter, which is the letter you referenced,  
2 then saying, you know, we need more information.

3 Q. All right. Let me make sure I understand the  
4 chronology correctly.

5 It is the telephone call around January 17th  
6 that prompts Midland Credit Management to put the  
7 account in this hold status because it's under dispute,  
8 correct?

9 A. Correct.

10 Q. All right. Now, according to your notes, if  
11 you look back at Ross 5, please.

12 A. Uh-huh.

13 Q. And those are the account notes?

14 A. Yes.

15 Q. Midland 10, do you have those?

16 A. Yes.

17 Q. Do you see the entry on the far right-hand  
18 side? It says, "February 1, 2011."

19 A. Yes.

20 Q. Do you see the note on the left-hand side says,  
21 "Okay for work dispute outside validation period.  
22 Consumer needs to send proof"?

23 A. Correct.

24 Q. Okay. So the note on February 1st was that  
25 it's okay to work this account, correct?

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1           A. Yes, because the consumer had not sent in the  
2 written letter of dispute inside the validation period  
3 as was requested.

4           Q. In fact, the letter that Midland Credit  
5 Management sent to Ms. Montgomery asking for this proof  
6 didn't go out until the next day, February 2nd,  
7 according to Montgomery 49; isn't that correct?

8           A. Yeah, that's correct.

9           Q. Okay. So in that letter, you say, "The purpose  
10 of this letter is to request your assistance so that we  
11 may reach a quick resolution to your dispute."

12           Do you see that?

13           A. Yes.

14           Q. Okay. The day before, the account had already  
15 been okayed to work, correct?

16           A. Correct.

17           Q. And then the second paragraph begins, "As part  
18 of our investigation of your dispute, it would be  
19 helpful to have a copy of any documentation that you may  
20 have that supports your dispute."

21           Do you see that?

22           A. I do.

23           Q. Okay. That's part of Midland Credit  
24 Management's investigation, according to this letter,  
25 correct?

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1           A. It -- it is part of it after the validation  
2         period.

3           Q. Right.

4                          There was no investigation done whatsoever;  
5         isn't that correct?

6           A. Are you talking about when --

7           Q. In the February 2011 time frame, Midland  
8         conducted no investigation. There is no record of any  
9         investigation into Ms. Montgomery's dispute; isn't that  
10      correct?

11          A. Not a specific investigation. We would always  
12         wait to get the -- receive the letter of dispute before  
13         initiating the investigation.

14          Q. But Midland did not go out on its own and try  
15         to get any supporting documentation concerning  
16         Ms. Montgomery's dispute, correct?

17          A. No, because that's triggered by the written  
18         request from the consumer during that validation period.

19          Q. Okay. So I want to understand what they are  
20         telling Ms. Montgomery will be part of your  
21         investigation into this matter in February of 2011.

22                  Did Midland interview a single person  
23         concerning Ms. Montgomery's dispute?

24          A. In February?

25          Q. Yes.

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1 A. Not to my knowledge.

2 Q. Did Midland obtain any records from Capital One  
3 that might show that Ms. Montgomery had disputed the  
4 account as a fraud years earlier with Capital One?

5 A. I don't know that we requested those in  
6 February. As I mentioned, the investigation would have  
7 been triggered by her written letter of dispute, which  
8 didn't occur.

9 Q. You would agree with me that the letter dated  
10 February 2nd, 2011 says, "As part of our investigation  
11 into your dispute..."

12 That's how the second paragraph begins,  
13 correct?

14 A. Yes.

15 Q. Okay. Let's just focus on whether there was  
16 any investigation into her dispute in the February 2011  
17 time frame.

18 You've agreed so far that Midland Credit  
19 Management interviewed no witnesses, correct?

20 A. Correct.

21 Q. And you would agree with me that it gathered no  
22 documents on its own.

23 Do you agree with that?

24 A. Not to my knowledge. We didn't in February.

25 Q. There is no record that Midland went back to

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1 Capital One and got the original application for this  
2 credit account, correct?

3 A. No, because we hadn't received the written  
4 letter of request from Ms. Montgomery.

5 Q. But you had received her dispute that she  
6 claimed to be a victim of fraud and identity theft two  
7 weeks earlier, correct?

8 A. Yes. We -- as part of that verbal dispute, we  
9 requested that she send something in writing. And when  
10 that didn't happen, then the -- we trigger the account  
11 movement and then this letter to request now at that  
12 point that the consumer provide proof of their dispute.

13 Q. No. I must respectfully disagree with you.  
14 That's not what your letter says.

15 MR. SCHWARTZ: Objection. Objection. Are you  
16 going to ask a question?

17 MR. SOUMILAS: Yeah, I will ask a question.

18 BY MR. SOUMILAS:

19 Q. Would you agree with me that the letter says  
20 that "It would be helpful to have a copy of any  
21 documentation that you may have that supports your  
22 dispute"?

23 That's what your letter says, correct?

24 A. Yes.

25 Q. And it also says that as part of Midland's

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1 investigation, such documentation from Ms. Montgomery  
2 would be helpful, correct?

3 A. Correct.

4 Q. All right. So I'm focusing not on what  
5 Ms. Montgomery may have sent that Midland would consider  
6 to be helpful. I'm focusing on what Midland may have  
7 done as part of its own investigation.

8 Are you with me?

9 A. Yes.

10 Q. So am I correct that Midland did not obtain any  
11 police report from Capital One concerning  
12 Ms. Montgomery's dispute of fraud?

13 MR. SCHWARTZ: Objection as to form. Objection  
14 as to form.

15 MR. SOUMILAS: Fine.

16 BY MR. SOUMILAS:

17 Q. In February of 2011, am I correct that Midland  
18 Credit Management did not obtain any police report from  
19 Capital One concerning Ms. Montgomery's dispute of  
20 fraud?

21 MR. SCHWARTZ: Verbal dispute?

22 MR. SOUMILAS: Verbal dispute, yes.

23 MR. SCHWARTZ: Thank you.

24 THE WITNESS: No, we did not.

25

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1 BY MR. SOUMILAS:

2 Q. Am I correct that in response to  
3 Ms. Montgomery's verbal dispute of fraud, Midland Credit  
4 Management did not obtain any fraud affidavit that  
5 Ms. Montgomery had filled out with Capital One?

6 A. No. We requested that she send something in  
7 writing, and that didn't happen, so we did not talk to  
8 Capital One in February.

9 Q. And you -- you, Midland Credit Management,  
10 conducted no investigation whatsoever in February 2011  
11 into Ms. Montgomery's verbal dispute of fraud; isn't  
12 that correct?

13 A. Not a typical investigation. The process is to  
14 document what's being said to mark the account so it can  
15 be recorded as disputed and to request a letter of  
16 dispute.

17 Q. You did not conduct an investigation that  
18 involved speaking with any witnesses or gathering any  
19 documents.

20 Is that accurate?

21 A. Yes.

22 Q. Yes, that's accurate? Correct?

23 A. Correct.

24 Q. All right. Now, the very next day after your  
25 February 2nd, 2011 letter, Midland decided to send this

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1 account to a law firm so that Ms. Montgomery could get  
2 sued; isn't that right?

3 MR. SCHWARTZ: Objection as to form.

4 You can answer, if you can.

5 MR. SOUMILAS: I will rephrase it.

6 BY MR. SOUMILAS:

7 Q. The very next day after your February 2nd, 2011  
8 letter, Midland Credit Management referred this account  
9 to a law firm to consider suing Ms. Montgomery for the  
10 Capital One debt?

11 A. No. It looks like it was referred on 2/20.

12 Q. What does "Sent to legal" mean?

13 A. It's a program. That's what the "CC0130R"  
14 means.

15 Q. Would you please take a look at the document  
16 we've marked as Ross 5. I'm sorry. It would be Ross 6  
17 for purposes of today.

18 A. Yes.

19 Q. Do you see the collection detail notes for this  
20 account on the second page? They are in  
21 chronological -- reverse chronological order.

22 A. Yes.

23 Q. Do you see an entry on February 3rd, 2011?

24 A. Yes.

25 Q. And on that entry, it says, "Sent to MCM

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1 legal."

2 What does that mean?

3 A. To my knowledge, it's a program in our system  
4 that will review accounts.

5 Q. It's a program in Midland's computer system?

6 A. Yes.

7 Q. That will review accounts of debts for what  
8 purpose?

9 A. I believe it's to review to see if accounts are  
10 eligible to be sent to a firm.

11 Q. Does this computer system know how to do -- to  
12 trigger that review on its own or does somebody actually  
13 do it?

14 A. I know a person manages it. I don't know  
15 exactly how the program works.

16 Q. According to the entry that we have here, does  
17 it look like it's a computer-generated entry to send  
18 this account to legal?

19 A. Yes.

20 Q. So would you agree with me that it looks like  
21 Midland's computer decided the day after it sent a  
22 letter asking for some helpful information from  
23 Ms. Montgomery to refer this matter to legal for a  
24 possible lawsuit?

25 A. It looks like the system generated that review

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1           A. I'm not aware of any specific person that made  
2 it -- that decision.

3           Q. Okay. You've not identified anybody, correct?

4           A. No.

5           Q. And you are familiar with the entries that we  
6 see here in the account detail screens, correct?

7           A. Correct.

8           Q. And as far as you could tell, they appear to be  
9 computer-generated entries. The system themselves put  
10 them in, correct?

11          A. Yes.

12          Q. Because this particular account was one that  
13 met the profile as one eligible for a possible lawsuit,  
14 correct?

15          A. Yes. It would have had to in order to be  
16 referred.

17          Q. Right.

18           And you are aware that there was a lawsuit that  
19 Burton Neil & Associates, in fact, brought against  
20 Ms. Montgomery, correct?

21          A. Yes.

22          Q. You are aware that a Midland Credit Management  
23 employee signed an affidavit in support of that lawsuit,  
24 correct?

25          A. Yes.

## ANGELIQUE ROSS

1           Q. The notes show that the affidavit would have  
2         been requested on February 26, 2011. Am I correct about  
3         that?

4           A. Yes.

5           Q. Was it requested by the You Got Claims computer  
6         system?

7           A. The You Got Claims system would have  
8         transmitted the request, but to my knowledge, the system  
9         itself is not requesting anything. That request has to  
10       be triggered by a person.

11          Q. Okay. Who triggered the request on February 26  
12       for an affidavit to be provided?

13           MR. SCHWARTZ: I'm going to object. I'm going  
14       to object. I'm going to object. It's attorney-client  
15       privilege between Burton Neil and Midland.

16           I'm going to ask that she doesn't respond to  
17       that question.

18          BY MR. SOUMILAS:

19          Q. Are you aware that the affidavits that Midland  
20       Credit Management uses in bringing collection lawsuits  
21       against consumers are generated and prepared by the You  
22       Got Claims computer system?

23           MR. SCHWARTZ: I'm --

24           THE WITNESS: I don't believe that's accurate.  
25       I don't believe that the You Got Claims prepares the

## ANGELIQUE ROSS

1 affidavits.

2 BY MR. SOUMILAS:

3 Q. Does -- does somebody actually type those  
4 affidavits out?

5 A. To my knowledge, there is templates used and  
6 information is -- there is specific account-related  
7 information that's populated into it.

8 So if -- if you're asking me if someone is  
9 manually typing every single affidavit, no, I don't  
10 believe that to be the case.

11 Q. So let's make sure I understand this. The --  
12 there is a template so that all affidavits use certain  
13 boilerplate language, if you will?

14 A. Yes. They can vary, but yes.

15 Q. They can vary from court to court if it's  
16 determined that a particular court needs different type  
17 of language in these affidavits, correct?

18 A. That could be one factor. It could be state  
19 related as well.

20 Q. But in Philadelphia, for example, there is a  
21 form for the particular affidavit to be used in  
22 Philadelphia that's used over and over and over again,  
23 correct?

24 A. Yes.

25 Q. And when you say that data is populated into

## ANGELIQUE ROSS

1 A. Yes.

2 Q. Okay. Now, are you aware that at some point  
3 Midland Credit Management terminated the lawsuit against  
4 Ms. Montgomery?

5 MR. SCHWARTZ: Objection as to form.

6 You can answer, if you can.

7 THE WITNESS: Yes, I know it stopped at some  
8 point.

9 BY MR. SOUMILAS:

10 Q. That's what I meant. I meant that at some  
11 point, the lawsuit stopped.

12 Do you know how it stopped?

13 A. I believe after the documents provided by  
14 Ms. Montgomery related to fraud were received, then  
15 there was a request made by Midland to stop.

16 Q. When did Midland make that request?

17 A. That would have been -- looks like 7/28/2011.

18 Q. I'm sorry. When was that?

19 A. 7/28/2011.

20 Q. That would be July 28th, 2011?

21 A. Yes.

22 Q. And what are you looking at to come up with  
23 that answer?

24 A. I'm looking at Ross 5, the account notes.

25 MR. SCHWARTZ: Bates stamped Midland 9, 10.

## ANGELIQUE ROSS

1 BY MR. SOUMILAS:

2 Q. Where the entry says, "Follow up with firm.  
3 Suit has been dismissed"? There?

4 A. Actually, below that. So before that, there  
5 was a -- once the information was received by Midland,  
6 then the request was sent back. It says, "Rule." The  
7 very last line of the entry on 7/28/2011 at 10:58 says,  
8 "Will recall account from firm."

9 Q. Okay. And who at Midland Credit Management  
10 made that decision to recall the account?

11 A. I cannot remember who specifically did it, but  
12 their collector code is ERR.

13 Q. You have not spoken with that person in  
14 connection with this case?

15 A. No.

16 Q. Am I correct that a little bit more than a  
17 month later Midland received a refund from the issuer  
18 for this account?

19 A. Yes.

20 Q. So that would have been that entity that sold  
21 it to you, the Atlantic -- I'm sorry. I forget their  
22 name.

23 MR. SCHWARTZ: Atlantic Credit Finance.

24 BY MR. SOUMILAS:

25 Q. Is that right? Atlantic Credit Finance?

## ANGELIQUE ROSS

1 A. Yes.

2 Q. All right. And am I correct that at some  
3 point, again, about a month, month and a half later,  
4 Midland Credit Management wrote a letter to  
5 Ms. Montgomery dated September 15th, 2011?

6 A. Let's see. Yes.

7 Q. If it helps you, I think it's -- we have a copy  
8 of it within Ross 8 at Montgomery 48.

9 Does that help you?

10 A. Yes.

11 Q. All right. And in that letter, Midland Credit  
12 Management says that "The above referenced Capital One  
13 account was transferred to MRC Receivables Corp. and  
14 referred to Midland Credit Management."

15 What's MRC Receivables Corp.?

16 A. That was another purchasing entity for --

17 Q. I thought you told me in this case the  
18 purchasing entity was Midland Funding for this  
19 particular accounts; is that correct?

20 A. I -- I don't know if I said that Midland  
21 Funding purchased it, but...

22 Q. But what?

23 A. It -- MRC Receivables was another entity that  
24 purchased accounts at the time. I believe all have been  
25 transferred over to Midland Funding.

## ANGELIQUE ROSS

1                   And then the next sentence says that "MCM" -- I  
2 guess that's Midland Credit Management -- "has since  
3 been informed that this account was transferred in error  
4 and has been recalled by Capital One."

5                   That's not a true statement either, is it?

6       A. It would have been recalled by Atlantic Credit.

7       Q. Right.

8                   Capital One didn't do any recalling, correct?

9       A. Correct.

10      Q. And -- and the reason why Midland Credit  
11 Management terminated the lawsuit and sent the account  
12 back to Atlantic Credit for a refund is because the  
13 account was a result of fraud; isn't that correct?

14       MR. SCHWARTZ: Objection as to form.

15       You can answer, if you can.

16       THE WITNESS: Well, I guess more specifically  
17 the reason it was recalled is because we received proof  
18 that it was the result of fraud.

19       BY MR. SOUMILAS:

20      Q. Okay. So it wasn't an error that it was sent.  
21 It was a determination made that the account was a  
22 result of fraud, correct?

23      A. Well, we believe if it was transferred to us  
24 and already fraud, then that would be an error.

25      Q. Okay. Now, if you look within Ross 5 at

## ANGELIQUE ROSS

1 assigned to that code.

2 Q. All right. But there is a way of deleting  
3 accounts due to fraud as well, correct?

4 A. I believe so, yes.

5 Q. You are familiar -- very familiar with credit  
6 reporting, correct?

7 A. I'm familiar with it, yes.

8 Q. Yes. And the reason why this account was  
9 terminated was because of substantiation of fraud,  
10 correct?

11 A. Correct.

12 Q. Are you aware that Capital One had made a  
13 determination in 2009, two years earlier, that this  
14 account was an account that Ms. Montgomery was not  
15 responsible for?

16 A. Based on a letter, yes.

17 Q. Okay. Are you aware that the lawsuit which  
18 was --

19 A. Can we take a small break?

20 Q. We're going to take one in just a minute,  
21 because we are about done with the chronology and this  
22 is a perfect time to take a break.

23 But I wanted to ask you whether you knew that  
24 the attorneys who dismissed the lawsuit on Midland  
25 Funding's behalf dismissed it without prejudice.

## ANGELIQUE ROSS

1 A. Yes, I'm aware.

2 Q. Do you understand that to mean that  
3 Ms. Montgomery could get sued again for that same debt  
4 because the suit was dropped without prejudice?

5 MR. SCHWARTZ: Objection as to form.

6 BY MR. SOUMILAS:

7 Q. What's your understanding of that?

8 A. My understanding is yes, it's possible. But  
9 since we have the account and we shut it completely  
10 down, we don't re-enable those accounts or do any  
11 further collection activity after that happens.

12 Q. And are you aware that the attorneys who  
13 handled the lawsuit never bothered to tell  
14 Ms. Montgomery that she wasn't required to show up to  
15 court to defend herself on the scheduled court date?

16 A. I don't know that I'm aware of that.

17 Q. Okay.

18 A. I don't recall.

19 MR. SOUMILAS: This is a good time for a break.

20 THE WITNESS: Okay.

21 MR. SOUMILAS: Let's go off the record.

22 VIDEO TECHNICIAN: This ends Media Number 1 in  
23 the deposition of Angelique Ross.

24 Time off the record 10:26 a.m.

25 (Recess.)

## ANGELIQUE ROSS

1 provided by the creditor when Midland Funding acquired  
2 the subject debt in December of 2010 showing that the  
3 Capital One debt was due and owing for Plaintiff."

4 And then it says, "See a copy of the Capital  
5 One loan attached as Exhibit A to the answer."

6 Do you see that?

7 A. Yes.

8 Q. So you would agree with me that at least as of  
9 April 2012, Midland denied that Ms. Montgomery was not  
10 responsible for this debt?

11 A. I -- I'm not reading it that way. I'm reading  
12 it as at the time -- at the time information was  
13 provided during -- during that time, we relied on the  
14 information from the creditor.

15 Q. All right. Well, the answer speaks for itself.

16 Speaking -- sitting here today, as a  
17 representative of both Midland Credit Management and  
18 Midland Credit Funding, is it your position that  
19 Ms. Montgomery owed that Capital One debt?

20 A. Is it our position now that she owed the debt?

21 Q. Is it your position sitting here today,  
22 correct?

23 A. No, not today.

24 Q. Okay. Your position today is that she was a  
25 victim of fraud?

## ANGELIQUE ROSS

1           A. I believe just Capital One's letter said that  
2         she didn't owe the debt. And, yeah, she did file a  
3         police report, so I believe that to be true.

4           Q. Okay. And given that position, would it also  
5         be true that Midland Funding and Midland Credit  
6         Management will not sue Ms. Montgomery again for this  
7         debt and have no intention of doing so?

8           A. That's correct.

9           Q. Okay. You would agree with me that, according  
10       to your records, this was a consumer debt, correct?

11          A. I -- I believe so.

12          Q. That's what it says right there in Ross 5.

13         Those are Midland's account records for this account at  
14         Midland 8, please. Page 8 on the top left-hand side, it  
15         says, "Product type: General consumer loan."

16          A. (Inaudible.)

17          Q. I'm sorry?

18          A. Yes, it says that.

19          Q. All right. Now, having gone through the  
20         chronology that we've gone to with respect to this  
21         account, do you believe that Midland Credit Management  
22         followed its usual policies and procedures in attempting  
23         to collect monies for the Capital One debt from  
24         Ms. Montgomery?

25          A. Yes. And are you referring to the phone calls

## ANGELIQUE ROSS

1 Management ever requested the original application for  
2 this Capital One account at any time?

3 A. I haven't personally seen it, but that doesn't  
4 mean that it wasn't requested.

5 Q. Okay. Well, speaking as you are as a corporate  
6 representative for both Midland Credit Management and  
7 Midland Funding, are you aware of any record that shows  
8 that anyone from the two Midland businesses ever  
9 requested the original application for this Capital One  
10 account?

11 MR. SCHWARTZ: Objection as to form.

12 BY MR. SOUMILAS:

13 Q. You can answer it.

14 A. I haven't seen anything, no.

15 Q. Am I correct that Midland Credit Management and  
16 Midland Credit Funding never obtained any statements  
17 from Capital One like mostly billing statements  
18 concerning this account?

19 A. I don't believe so, no.

20 Q. Am I correct that Midland Credit Management and  
21 Midland Funding never obtained any affidavit of fraud  
22 that Ms. Montgomery provided to Capital One?

23 A. As far as I know, not -- not from Capital One  
24 or Atlantic. Just what was provided by Ms. Montgomery  
25 later.

## ANGELIQUE ROSS

1 Q. Am I correct that neither Midland Credit  
2 Management or Midland Funding obtained from Capital One  
3 or Atlantic any dispute history concerning with a  
4 Capital One account?

5 A. No, we did not.

6 Q. And am I correct that the Midland businesses  
7 did not obtain any police report from either Capital One  
8 or Atlantic concerning this account?

9 A. No, we didn't.

10 Q. Are you aware of any other documentation that  
11 Midland Credit Management or Midland Funding obtained  
12 from either Atlantic Credit or Capital One concerning  
13 this account other than the front and back of this check  
14 that we see here within Ross 10?

15 A. No, I'm not aware of it.

16 Q. So this is the only item of information  
17 concerning the account at issue that you obtained from  
18 either Capital One or Atlantic, correct?

19 A. Well, we did receive information from them  
20 related to the account, but not like in this form. So  
21 there would have been account information that we used  
22 to put -- load the account into our system.

23 Q. Right.

24 So remember earlier in reference to the bill of  
25 sale, it had reference "unadulterated electronic

**ANGELIQUE ROSS**

1 records" concerning the account?

2 A. Uh-huh.

3 Q. "Yes"?

4 A. Yes.

5 Q. So you don't have any unadulterated electronic  
6 records about the application, the statements, the  
7 billing history, the dispute history, nothing, correct?

8 A. Not to my knowledge, we don't have that. We  
9 just have other -- the other information that was given  
10 to us in the electronic file.

11 Q. So this was electronic information that was  
12 obtained at the time of the purchase of the account,  
13 correct?

14 A. Yes.

15 Q. And that would be information about who  
16 allegedly owes the account, name, address, that type of  
17 personal identifying information?

18 A. Yes, that's some of it.

19 Q. The amount, the account number, correct?

20 A. Correct.

21 Q. What else?

22 A. Open date. Last payment date, if there was  
23 one. Sometimes a phone number. That's what I can think  
24 of offhand.

25 Q. Okay. Let's move on to the next page of

## ANGELIQUE ROSS

1        might just want to refer to that. It might be easier.

2            A. Okay. I have it.

3            Q. You have it?

4            A. Yes.

5            Q. Now, is it your understanding that this  
6        particular affidavit was prepared in the normal course  
7        of how Midland prepares these affidavits?

8            A. Yes.

9            Q. And it looks like it was signed March 11th,  
10        2011; is that correct?

11          A. Yes.

12          Q. Now, am I also correct that according to  
13        Midland's own internal collection detail records for the  
14        Capital One account, which are in Ross 5 if you need to  
15        reference that, am I correct that Midland had a  
16        telephone dispute from January 17, 2011 advising it that  
17        Ms. Montgomery believed that this account was fraud and  
18        identity theft, according to -- to the notes in the  
19        system?

20          A. Yes.

21          Q. Are you aware that in preparing this  
22        verification on March 11th, 2011, whether Ms. Hoffman  
23        even looked at the account notes in Midland Credit  
24        Management's own computer system concerning this  
25        account?

**ANGELIQUE ROSS**

1           A. I can't answer what exactly she did.

2           Q. Okay. You don't have any indication that --  
3 you've never spoken with Ms. Hoffman, correct?

4           A. No.

5           Q. Have you read the testimony that she gave in  
6 this case, a transcript of it?

7           A. No.

8           Q. Speaking for the Midland defendants today, do  
9 you know whether Ms. Hoffman looked at any of the  
10 collection detail notes in Midland's own records before  
11 signing the affidavit?

12          A. Well, she signed that she had access to and  
13 reviewed the records. So, I mean, that's the only --  
14 that's the basis I have to -- to say that. I have not  
15 talked to her specifically.

16          Q. I know that she signed that she did them. I'm  
17 asking whether, as a matter of fact, you know that she,  
18 in fact, reviewed the -- the account detail records?

19          A. I only have what's in front of me in terms of  
20 what she signed and notarized.

21          Q. So you don't know one way or the other?

22          A. Well, based on her statement under penalty of  
23 perjury, she did. But I didn't ask her specifically or  
24 talk to her about what she reviewed.

25          Q. Okay. Do you know whether Ms. Hoffman reviewed

1 STATE OF CALIFORNIA )

: ss.

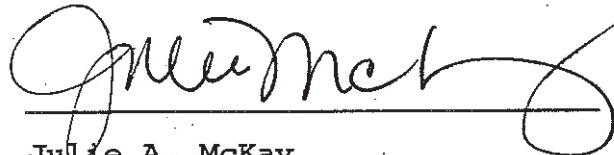
2 COUNTY OF SAN DIEGO )

3 I, Julie A. McKay, Certified Shorthand Reporter in  
4 and for the State of California, Certificate No. 9059,  
5 do hereby certify:

6 That the witness in the foregoing deposition was by  
7 me first duly sworn to testify the truth, the whole  
8 truth, and nothing but the truth in the foregoing cause;  
9 that the deposition was taken before me at the time and  
10 place herein named; that said deposition was reported by  
11 me in shorthand and transcribed, through computer-aided  
12 transcription, under my direction; and that the  
13 foregoing transcript is a true record of the testimony  
14 elicited at proceedings had at said deposition.

15 I do further certify that I am a disinterested  
16 person and am in no way interested in the outcome of  
17 this action or connected with or related to any of the  
18 parties in this action or to their respective counsel.

19 In witness whereof, I have hereunto set my hand  
20 this

21   
22

Julie A. McKay

23 CSR No. 9059

24

25

**Erin Novak**

---

**From:** Schwartz, Andrew M. [AMSchwartz@MDWCG.com]  
**Sent:** Thursday, May 03, 2012 4:19 PM  
**To:** Erin Novak  
**Cc:** Holmes, Sarah E.  
**Subject:** Montgomery v. Midland and Neil  
**Attachments:** Montgomery Account Notes Prod.pdf

Erin:

I had to redact some information regarding legal review, but see the attached.

Andrew M. Schwartz

**MARSHALL, DENNEHEY, WARNER,  
COLEMAN AND GOGGIN, P.C.**

1845 Walnut Street, 17<sup>th</sup> Floor

Philadelphia, PA 19103

Direct Dial: 215-575-2765

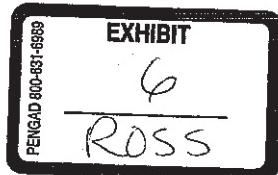
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Firm Web Site: [www.marshalldennehey.com](http://www.marshalldennehey.com)

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Collection Detail for account # [REDACTED] 0623

PA Local: 12:13 PM (E)

<u>Payment Plan</u>	<u>Update Address</u>	<u>Verify Employer Payment History</u>	<u>Update Phone</u>	<u>Additional Data</u>
Angeline Montgomery	CAPITAL ONE - [REDACTED] 3595			Inv#: 2257 K Port#: 1163
100 South Broad St. (ATTY)	Best#: Home:	Last Wk: Int Rate: 6.00%	03/12/2012 Purch Bal: \$6,879.53	Int+Fees: \$1,280.31
C/o Mark Mailman (+Phones)	Work:	Last Pd:		Total Paid: \$7,841.84
PHILADELPHIA PA 19110	Last Ltr: 09/15/2011	Last Pd\$: .00		
SSN: [REDACTED]-0106	Ltr Dis%: 0.00%	Ltr Exp:		Balance: \$0.00
Dte Birth:	SIF Amt: \$0.00	Dte C/O: 03/31/2009	SOL Exp: 09/26/2012	
CC: RCL Name: RECALLED ACCOUNTS		Xfr	Site: SD Ext:	Team:

Comments	Status	CC	By	Followup	Amount	Entered	Time
LAWSUIT FILED AGAINST MCM ET AL. ON 3/9/2012. US DISTRICT COURT - EASTERN PA	COMM	RCL	FM4	03/12/2012	0.00	03/12/2012	14:12:02

Account assigned from CND to PSR by SAVETIS	TRNF	PSR	DIX	0.00	08/01/2011	17:31:34
Recall-Firm closed account as C102 Client Request	COMM	AS6	***	07/30/2011 6879.53	07/30/2011	00:50:39
Follow Up with Firm - Suit has been Dismissed	RVEW	AQR	***	0.00	07/29/2011	00:19:04
RCVD FRAUD DISPUTE LTR FR CU VIA LO INBOX 7/26/11. CU PROVIDED LTR FR CAP ONE DATED 6/15/09. ACCT MATCH. CAP ONE DID INVESTIGATION, DETERMINED ACCT DOESN'T	COMM	YGC	ERR	07/28/2011	0.00	07/28/2011 10:58:28

BELONG TO CU. WILL ACCEPT AS VALID PROOF. WILL RECALL ACCT FR FIRM

ACCOUNT RECALLED PER SELLER DUE TO FRAUD	COMM YGC AUT	07/28/2011	0.00	07/28/2011	05:48:57
YGC address not added; address on file already	RVEW YGC ***		0.00	06/27/2011	00:37:47
Affidavit mailed to firm	COMM YGC ***		0.00	03/25/2011	12:22:37
Affidavit Request Received	COMM YGC ***		0.00	02/26/2011	02:27:12
YGC address not added; address on file already	RVEW YGC ***		0.00	02/25/2011	01:49:49
Refer customer to 610-696-2120 Burton Neil & Associates, P.C. PA1 1060 ANDREW DRIVE, SUITE 170, WEST CHESTER, PA 19380	COMM YGC ***		0.00	02/20/2011	07:46:45
SENT TO MCM LEGAL CC0130R PASSED ACCOUNT [REDACTED] 3208	RVEW L02 ***	02/02/2011	0.00	02/03/2011	01:15:58
262 CU FAILED TO PROVIDE PROOF	COMM BCB BCB	02/02/2011	0.00	02/02/2011	07:07:12
REQUEST TO PROVIDE PROOF	QCPP BCB ***	02/01/2011	0.00	02/01/2011	21:57:00
OK to work-Dispute outside validation period. Consumer needs to send proof.	COMM BCB ***	02/15/2011	0.00	02/01/2011	20:40:32
Verbal Dispute within 45 days.	RVEW VDQ ***	01/17/2011	0.00	01/17/2011	20:38:15
FRAUD/ID THEFT - CONSUMER CLAIMS FRAUD. CCI - GAVE PERMISSION TO SPK TO SON BILL ROBERTS - HE SAID THAT CU HAS BEEN VICTIM OF IDENTITY THEFT - WILL FAX IN LETTER OF DISPUTE - ALSO HAD LETTER FROM CAP1 STATING SHE'S BEEN CLEARED OF DEBT	RPOT BCB BCB	03/14/2011	0.00	01/17/2011	07:12:55
CCI [REDACTED] 3208 WNTS 2 DISCUS DA A/C X43515	RPNW BCB DLW	01/17/2011	0.00	01/17/2011	07:04:53
RPC * OTHER [REDACTED] 3208	COMM BCB BCB		0.00	12/18/2010	06:39:30
RPC DCC MM QA PLA S/T CU - SHE SAID SEND HER SOMETHING - I/A LETTER IS BEING SENT - SHE HU WHEN I ASKED HER INTENTIONS	RPOT BCB BCB	02/01/2011	0.00	12/18/2010	06:39:26
Account assigned from LP3 to BCB by PLARSON	TRNF BCB BCB		0.00	12/18/2010	06:38:19
LT LT1W Debt Validation/Recovery letter sent. No discount offered. 1st	SLTR LP3 ***	12/17/2010	0.00	12/17/2010	15:50:25

pmt amt of \$750. Payment and/or  
call requested by 02/01/2011.

OT \* WRONG NUMBER                    COMM LP3 9V6                    0.00 12/16/2010 06:35:45  
[REDACTED] 1967

KEEP ACCOUNT ACCESSIBLE            RVIEW PS4 \*\*\* 12/11/2010    0.00 12/11/2010 00:37:45  
TO OWNER - [REDACTED]